

Paul S. Johnson - 09356-097
 5325 Broder Blvd. P-41120
 Dublin, Ca. 94568 UHQ-007
 In Pro Persona

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 CLERK OF DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

Enclg

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 JM

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

CV 08 2730

NO. SBA (PR)
 PETITION FOR WRIT OF
 FEDERAL HABEAS CORPUS,
 AND MEMORADUM OF
 POINTS AND AUTHORITIES
 IN SUPPORT THEREOF

In re

Paul S. Johnson

On Habeas Corpus

I

1 } Petitioner has been unlawfully detained by
 2 } the Federal Probation Dept, State of California.
 3 } False imprisonment, entrapment, False reports and
 4 } Falsifying Documents In re. These actions being
 5 } unlawful, non Authorized by Governing laws of
 6 } the Constitution of the UNITED STATES OF
 7 } AMERICA, the STATE of CALIFORNIA, by agents, who
 8 } PRE-EMPT other outside law enforcement, C.D.C/DAPO
 9 } (UNIT 4) REGION II, who acted outside gov. authority.

II

10 }
 11 } I Paul Samuel Johnson Jr, am being held captive
 12 } at what is said to be SANTA RITA COUNTY jail/CDC
 13 } Dublin parole violator housing unit 3-F-6 at 5325
 14 } Broder Blvd Dublin California. 94568. Prison director of
 15 } the Dept. of Correction is JAMES TILTON. Inspector
 16 } general is MATTHEW CATE. Governor of California
 17 } is ARNOLD SCHARZENEGAR. California SEN. MIKE
 18 } MACHADO, and C.C.P.O.A.
 19 }

STATEMENT OF FACTS

1 } April 18, 2008, between the hours of 9:00 & 10:00 AM Friday, I
 2 } Paul Samuel Johnson Jr. drove to the Federal Probation Dept. located at
 3 } 280 S. Second ST. SAN JOSE CA. 95112, to turn in my monthly report.
 4 } Upon entering the building, I had to pass a security check before entering
 5 } the lobby of the probation dept. There was three security officers on
 6 } duty when I went through the metal detector. I don't know their
 7 } names, but they know me. I then entered the lobby to the probation
 8 } area. My probation officer was told that I was there. My probation
 9 } officer is Miss Sonia Lapizco. She escorted me to her office, we sat
 10 } down and started talking about me being homeless. After about (15)
 11 } fifteen minutes, Miss Lapizco asked me if I had been drinking. I
 12 } told her that I had been drinking the night before. She then started
 13 } getting on my case, which went on for about (2) two hours. In between
 14 } 10:00 AM & 11:55 AM, I was tested for drugs and breathalyzed for alcohol
 15 } consumption. My drug test came back negative for any drugs, and on
 16 } the breathalyzer my alcohol reading (1) .088. My second reading (15)
 17 } fifteen minutes later was .079. This reading would indicate that
 18 } my alcohol level was going down every minute of that morning.
 19 } My probation officer, Miss Lapizco contacted, CDC/DAPD Region II
 20 } Unit 4, and spoke to my parole officers Supervisor, Mr. Ted Roberson.
 21 } Mr. Roberson sent agents, Purdy & Nguyen down to the Federal building
 22 } and arrested me. My question is, if I was being violated, why did Miss
 23 } Lapizco let CDC/DAPD Region II Unit 4 violate me instead of the Fed-
 24 } eral probation dept? And now that I've been violated unlawfully,
 25 } and given three months with half time, why would Ms. Lapizco
 26 } would want to take action now. She handed me over to CDC/DAPD.
 27 } CDC/DAPD, charged me with a DUI. They didn't have no police report,
 28 } no one seen me driving from that office nor the probation office.
 29 } I told Ms. Lapizco that I drove to the Federal building. She
 30 } acted upon my statement, told the CDC/DAPD, and they ran
 31 } with it. I didn't have a condition for alcohol. Now I do!
 32 } My Federal probation conditions do not have a condition for
 33 } alcohol as well. All of my drug testing have been (N) negative. I've
 34 } completed an outpatient program name (Pathways). Received a
 35 } certificate of completion. I did have a steady job, my own
 36 } car, working cell phone and stayed in compliance with both,
 37 } probation & state parole. What am I doing so wrong?

STATEMENT OF FACTS

1 } I am a Veteran of the Vietnam era; 1974 to 1978, United States
 2 } Army. I have an Honorable Discharge for defending this
 3 } great Country of ours, land of the free, home of the brave.
 4 } Now I have been falsely imprisoned of a crime I did not
 5 } commit, and Found guilty within the confines of what can
 6 } only be described as a quagmire of unethical judicial stage,
 7 } crafted by State actors who violated my constitutional
 8 } rights of the 5th & 14 amendment, "Due process of law,"
 9 } being universal and applicable yet, disregarded giving
 10 } place to the unethical birth, resulting in a miscarriage
 11 } of justice in this here free land in the Country that I
 12 } have served and protected. As a senior citizen with an
 13 } honorable discharge from the U.S. Army, tax payer; how
 14 } is it that I can be imprisoned for something that is
 15 } not part of my conditions of probation/parole, and charged
 16 } because of what I said, without a hearing? What have
 17 } our judicial system succumb to when these unethical individuals
 18 } circumvent and preempt the Federal & State Parole Authority
 19 } and the judicial system & percribed Due Process Clause of
 20 } the 5th and the 14th amendment of the constitution of the
 21 } United States of America. The power of the Federal & State
 22 } Parole authority to fix prison terms is limited to prisoners
 23 } sentenced under the indeterminate sentencing law. Fifth
 24 } Amendment due process requires that the parolee/probationer
 25 } be accorded certain guarantees, including the right to a
 26 } hearing. The parolee must have an informal fact finding
 27 } hearing in the nature of a preliminary hearing, to determine
 28 } whether the conditions of parole have, in fact, been violated.
 29 } Due process is satisfied if refixing of term at maximum is
 30 } subsequently considered at full revocation hearing. A parolee
 31 } may be detained on one ground but have his/her parole
 32 } revoked on another. However the facts underlying the revocation
 33 } must, however, be determined at preliminary hearing followed by a
 34 } full revocation hearing. These facts must, constitute good cause
 35 } for revocation; a mere suspicion of complicity in the com-
 36 } mission of another offense is not sufficient. A prisoner is
 37 } not required to accept any condition imposed on probation/parole.

STATEMENT OF FACT

1 } Especially if that condition is in violation of or infringes on the
 2 } respected private realm of Family in which the State can not
 3 } enter. In determining whether to make order, "Parole Autho-
 4 } rity," not DAPO parole agents must consider facts of offense and
 5 } background of parolee. No decision shall be based upon information
 6 } that is not available to the prisoner unless the information has
 7 } been designated confidential under the rules of the department
 8 } and is necessary to the decision. The parole authority "BPH,
 9 } may consider and act on a parolee's voluntary statement or confession
 10 } made without the parolee first being apprised of his/her Miranda
 11 } rights. However at the trial on the offense constituting the parole
 12 } violation, evidence seized in violation of the parolee's con-
 13 } stitutional rights will not be admissible. At all hearings,
 14 } prisoners located in Calif. shall have the rights enumerated in
 15 } §§ 2245 through 2255. Prisoners located outside Calif. shall have
 16 } the rights specified in 2367. The prisoner is responsible for bringing
 17 } to the attention of the hearing panel any issues pertaining to his/
 18 } her rights under this article or any failure to comply with these
 19 } rules. A prisoner shall have the right to present relevant docu-
 20 } ments to the hearing panel. They may cover any relevant matter,
 21 } such as mitigating circumstances, disputed facts or release
 22 } planning. The "parole authority" reviews a prisoner's request for
 23 } reconsideration of denial of goodtime credit, the setting of the
 24 } length or conditions of parole, and the suspension or revo-
 25 } cation of parole. Parole is a period of conditional liberty
 26 } granted in order to facilitate the prisoners rehabilitation.
 27 } To hold that the Due Process Clause confers a circumscribed
 28 } right on the inmate, and then conclude that no explanation
 29 } need ever be vouched for the right being denied, would there-
 30 } fore change an admittedly circumscribed right into a pri-
 31 } vilege conferred in the unreviewable discretion of the parole
 32 } agent, and or the "parole authority," BPH. I think the U.S. Courts
 33 } deciding in *Wolff*, *Supra*, meant something more than that.
 34 } A parolee has liberty interest in parole when it mandated
 35 } by statute on certain conditions, and is entitled to a review of
 36 } the State parole procedures under the due process clause. The
 37 } purpose of parole is primarily rehabilitative. A prisoner is allowed to live
 38 } outside prison subject to certain conditions in order to facilitate
 39 } his/her reintegration into society. Prisoners given hope of free-
 40 } dom outside prison have a motive for good conduct. In addition,
 41 } parole serves to alleviate the cost to society of keeping offenders
 42 } in prison...
 43 } Due Process Clause of the 14th Amendment of the U.S.
 44 } Constitution applies to parole revocation proceedings; Calif. Parole

STATEMENT OF FACTS

1 } Advocacy project/program Permanent Injunctions; Parole Authority; BPH,
2 } Actions include parole revocation decisions, denial of parole suitability
3 } for life prisoners, or parole conditions set by BPT: "Parole Authority". CDCR
4 } is responsible for some other aspects of parole, including determining
5 } location of parole and most basic parole conditions, and such actions
6 } should be appealed using 602 inmate appeal process. However, a prisoner
7 } or parolee who is challenging an action of the BPH: "Parole Authority" does
8 } not have any general administrative Appeal Process!!! The doctrine of
9 } exhaustion of administrative remedies has not hardened into inflexible
10 } dogma. Thus, in an exceptional case, such as "mine" the administrative
11 } remedy is inadequate. Pursuit of the Remedy would be Futile; or delay
12 } would result in irreparable injury. A court has discretion to hear the
13 } case without requiring exhausting administrative remedies. Ultimately,
14 } the requirement of exhausting administrative remedies should not
15 } apply when injustice might otherwise result: Parole Authority, can
16 } not revoke parole or extend a revocation without cause, it may be revoked
17 } for violation of a condition of parole or for a commission of a crime,
18 } even if the offense preceded the granting of parole. The BPH: "Parole Authority,"
19 } Administrative board is responsible for setting parole dates establishing parole
20 } length and conditions. People who are subject to their jurisdiction, void
21 } of any general administrative appeal process are adult felons committed
22 } by Superior Courts to the Director James Tilton, now it is, as of May 16,
23 } 2008, Matthew Cate, former Inspector General. Under the Calif. Penal Code
24 } §§ 1168 and 1170. A parole condition (felon); is a specific condition regarding
25 } behavior required or prohibited during parole. Conduct by a parolee that
26 } violates the conditions of parole set forth by the "Parole Authority" is defined
27 } for a violation of parole. Now a parole agent is not BPH/BPT; parole
28 } authority. A parole agent's peace officer status extends to enforcement
29 } of the condition of parole. And to any violation of law that arises or is
30 } discovered in the course of employment. A parole agent shall not preempt
31 } any other law enforcement agency in enforcing the law. Any parole
32 } agent employed by CDC is a peace officer pursuant to the provisions
33 } of P.C. 830.5. They tend to place parole holds on a parolees parole
34 } status once the parolee is in violation. A parole agent can not preempt
35 } the law by executing his/her own revocation extension assessment offer,
36 } by using coercion, or in stalling fear by the threat of revocation to manip-
37 } ulate a parolee who does not have an attorney present, and circumvent
38 } the governing procedure set forth by the protection of Due Process.
39 } Neither is a parole agent or unit supervisor allowed by law to turn or
40 } manipulate an unlawful arrest into a parole revocation extension
41 } hearing by way of Valdivia "Schwarzenegger for a (REA) revocation

STATEMENT OF FACTS

1 extension assessment (screening offer), or a revocation hearing provided by
 2 Morrissey. Brewer called Morrissey hearing or revocation hearing. All in a
 3 fraudulent dizzying way. All to make any parolee sign an preemptive
 4 amendment to a parolee's special condition of parole, that wasn't estab-
 5 lished by the "parole authority." Especially when a parolee hold shall be
 6 maintained only when it is determined that the parolee's release from
 7 custody will prove a serious risk to the safety of others, the safety of
 8 the parolee, the security of property or when it is likely the parolee will
 9 abscond. How can a parole agent therefore arrest, place on hold and have
 10 a revocation extension assessment and hearing prior to the "parole
 11 authority establishing any new conditions?" To place a hold and arrest
 12 is direct proof of violation of Due Process, described further in the parolee's
 13 right to be provided with an attorney if you are facing a revocation
 14 extension. "Your attorney will help you understand the process and decide
 15 whether you should accept the BPH's (REA or screening offer). The
 16 maximum time you can have your parole revocation term extension
 17 term extended is 180 days (6 months). ^{Conclusion} Now when you have a parolee
 18 who is on both Federal & State parole, the state parole authority retains the
 19 power to revoke state parole, retake the parolee, and imprison him/her.
 20 This power is subject to Federal Rights, if asserted, under the principle
 21 of "comity between jurisdictions. When Federal Authorities do not
 22 object to state retaking parolee, or revoking parole status, a parolee
 23 may be in a situation were to complain would be futile. But however,
 24 the circumscribed Federal & universal constitutional rights give the
 25 parole Authorities that can and will be used in a grant of habeas Corpus
 26 to reverse the state's subordinate action and power to revoke. Therefore
 27 the universal Matrix of power to petition the government for redress of grievance
 28 supercedes the Authority of BPH, Prison Authority, as well, Protected by Uni-
 29 versal law, governing the free world Founded by our universal ancestors who
 30 enacted the law to every being, decedent, element, microcosm, material,
 31 Maverick, cherubin, archangel, mason who is free or not, Aram or masiah,
 32 hybrid, shaman, in any and all universes and or world. Be they may ethically
 33 have right in all dominion of existance. Therefore subjecting any microcosm to
 34 their existing atom originated being, on this terrestrial land subject to law
 35 given to mankind on an extra-terrestrial governing court, plane, and or
 36 realm; on a order issued by any subordinate official. I am not afraid, I
 37 am here, I am now evoking excellence transcending that of a Parole Authority.
 38 The Valdivia case has resulted in a Federal court order called "Stipulated Order
 39 For Permanent Injunctive Relief" (Permanent Injunction) which was
 40 entered by the court on March 9, 2004. The Federal court order is able to be
 41 enforced. However, to enforce a Flawed system that is in itself in violation of

CONCLUSION

6

1 } Constitutional rights, universal laws, is in itself self defeating. The prison
 2 } advocacy program (Cal PAP) of The State of Calif, is therefore a masquerading
 3 } branch of "parole authority". There is now a ethics violation to any and all
 4 } legal representation violating and blatantly assisting in the stage craft of
 5 } the exploited rights of the prisoners and parolees of and in the State of Calif.
 6 } abroad. They along with the state "Parole Authority," director of corrections,
 7 } Governor, Chief inmate appeal officer, Deputy Commissioner, AG D.C. Rhonda,
 8 } Skipper Datta, all are in statutory violation as state actors of Federal
 9 } constitutional laws, that effect the conditions of confinement. The Federal
 10 } court is able to enforce the requirements. However (Cal PAP) Prison Authority,
 11 } is in itself biased to monitor & govern itself as a microcosmic law prescribing
 12 } entity, Void of a universal burden of proof, and a constitutional law
 13 } abiding system of a general Administrative Appeal process. The Permanent
 14 } Injunction does not affect parolee's ability to sue the "parole authority" (Cal
 15 } PAP) for money damages regarding parole revocation, or to file a petition
 16 } for a writ of habeas Corpus. However, in any case where you ask the court
 17 } to make the "Parole Authority" change their practices for everybody, the
 18 } Parole authority officials argue that the lawsuit should be dismissed
 19 } because of the Valdivia Settlement. In that case, Valdivia Settlement is
 20 } a civil scheme that violates constitutional law. Violating equal protection
 21 } differing significantly from other commitment schemes that retro activate
 22 } former versions of statutes and universal laws. Therefore violating ex post
 23 } facto. The AC, DC, BPH, quality control unit, BPH, Board of Parole Hearings
 24 } decisions processing unit, BPH, ADA compliance unit, Calif. parole advocacy
 25 } program, the State of Calif. parole advocacy project, are in fact the
 26 } "Parole Authority" inc. entity governed by its own perspective of authority.
 27 } According to (Cal PAP) warns the prisoners, a parolees that they "Prisoners
 28 } should be aware that laws change often and are subject to different
 29 } interpretations. That (Cal PAP) Prison Authority" do not always have
 30 } the resources to make changes. That it is the sole responsibility of
 31 } the prisoner/parolee to make sure that information contained in
 32 } their Injunction is applicable to the prisoner/parolees situation
 33 } That if you, a parolee are in the community, most of the materials
 34 } one needs will be available in public libraries. Prisoners/Parolees in
 35 } custody, on hold, etc. should be able to find help and materials
 36 } in the prison law libraries. With this said, a parole violator do not
 37 } have the access to the law library in order to obtain materials for
 38 } Pro-Per or legal assistance in law while disputing revocation.

Fitzgerald, John

From:
Sent:
To:
Subject:

Your own opinion

S

Hi John,

yeah, Paul came in here pretty intoxicated and admitted driving. he was in my office for about an hour before i breathalyzed him, at which point he blew a .088, so you can imagine he must have been pretty toasted when he first walked in. I smelled a strong odor of alcohol, that's why i breathalyzed him and he said he'd had a couple of beers the night before.

as we continued to talk, he admitted he has an alcohol problem, but he is very resistant to treatment. i will keep you updated on what i decide to recommend to the court when i initiate violation proceedings. i am requesting a no bail warrant so he is transferred to us after you drop your hold. let me know what you guys will be doing. Thank you soooo much for your help, and thank Ted Roberson, Purdy and Nguyen for me.

Ms. Sonia Lapizco's E-mail addressed
to Mr. John Fitzgerald

Exhibit

STATE OF CALIFORNIA
CHARGE REPORT
CDC 1502-B (08/05)

DEPARTMENT OF CORRECTIONS AND REHABILITATION
DISTRIBUTION
ORIGINAL - C-FILE
1ST COPY - FIELD FILE
2ND COPY - PAROLEE

REPORT TO: ☐ BOARD OF PAROLE HEARINGS

CDC NUMBER P41120	NAME: (LAST, FIRST, MI) Johnson, Paul		NAME BOOKED AS same		REGION/UNIT II/SJ 4
ARREST DATE 4/18/08	ARRESTING AGENCY DAPO		BPH REFERRALS: <input type="checkbox"/> MANDATORY <input checked="" type="checkbox"/> NON-MANDATORY		BOOKING NUMBER AND/OR LOCATION 08026842/SCL
ARREST CODE * A	* ARREST CODES A DAPO STAFF ALONE AB DAPO ASSISTED BY LAW ENFORCEMENT AGENCY				
HOLD DATE 4/18/08	DISCOVERY DATE 4/18/08	HOLD REMOVED DATE N/A	AGENT OF RECORD J. Fitzgerald	CONTROLLING DISCHARGE DATE 5/31/10pts	DISCHARGE REVIEW DATE 5/31/08pts
CHARGES AND CODES C4. Driving Under the Influence of Alcohol (850)			CHARGES AND CODES		
1.			4.		
2.			5.		
3.			6.		
REASON FOR RETAINING PAROLE HOLD: PAROLEE DANGER TO <input type="checkbox"/> ABSCOND <input checked="" type="checkbox"/> SELF <input type="checkbox"/> PROPERTY - OTHERS <input checked="" type="checkbox"/> SAFETY - OTHERS					
			DATE COPY GIVEN		NAME OF PERSON NOTICING PAROLEE

On 4/18/08 Johnson reported to U.S. Probation Officer Sonia Lapizco. Officer Lapizco observed a strong odor of alcohol omitting from Johnson's breath. Johnson was given a breathalyzer and it was determined that he had a blood alcohol level of .08. Johnson stated to his probation officer and to the AOR that he drove his own vehicle to the probation office. The DAPO Officer of the Day was contacted by the probation officer and parole took Johnson into custody for driving under the influence of alcohol.

*Federal Probation Officer Preempt
State parole Officer to take Johnson
into custody, on the 18th of April.*

APR 29 2008

PAROLE AGENT'S RECOMMENDATION:

Retain hold, refer to BPH.

UNIT SUPERVISOR'S ACTION		PAROLE AGENT'S SIGNATURE J. Fitzgerald		DATE 4/21/08
<input checked="" type="checkbox"/> DECISION	<input type="checkbox"/> REVIEW	<input checked="" type="checkbox"/> RETAIN HOLD	<input type="checkbox"/> RELEASE HOLD AS OF (DATE):	<input type="checkbox"/> CANCEL WARRANTS - WANTS
<input type="checkbox"/> CONTINUE ON PAROLE	<input type="checkbox"/> CONTINUE IN OUT-PATIENT STATUS	<input type="checkbox"/> *DISCHARGE EFFECTIVE DATE:	<input type="checkbox"/> RETAIN ON PAROLE	
<input type="checkbox"/> REINSTATE ON PAROLE AS OF (DATE):	<input type="checkbox"/> TIME LOSS	<input type="checkbox"/> SUSPENDED/REINSTATE IN OPS AS OF (DATE):	<input type="checkbox"/> REFER TO BPH	<input type="checkbox"/> INVESTIGATE, SUBMIT APPROPRIATE REPORT BY (DATE):
SPECIAL CONDITION(S)		<input type="checkbox"/> ADD <input type="checkbox"/> DELETE		
UNIT SUPERVISOR'S COMMENTS/RECOMMENDATION <input checked="" type="checkbox"/> I HAVE LOOKED AT THE INFORMATION. I BELIEVE THERE IS PROBABLE CAUSE TO MAINTAIN THE PAROLE HOLD				

PAROLE ADMINISTRATOR'S COMMENTS/DECISION		UNIT SUPERVISOR'S SIGNATURE T.E. Roberson, US	DATE 4/21/08
<input type="checkbox"/> REFER TO BPH	<input type="checkbox"/> *DISCHARGE EFFECTIVE DATE	FIELD ADMINISTRATOR'S SIGNATURE	DATE

CHARGE SHEET/REVOCATION TRACKING/SCHEDULING REQUEST
CDC 1676 (4/91)REPORT TO: ☐ BOARD OF PRISON TERMS☐ NARCOTIC ADDICT EVALUATION AUTHORITYDISTRIBUTION: DEPARTMENT OF CORRECTIONS
ORIGINAL - BOARD REPORT
1st COPY - R.H.C.
2nd COPY - H.A.
3rd COPY - PAROLEE
4th COPY - U.S.

CDC NUMBER P41120	NAME (LAST, FIRST, MI) Johnson, Paul	NAME BOOKED AS same	REGION/UNIT II/SJ 4	CSTCU - ST <input type="checkbox"/> YES <input type="checkbox"/> NO
ARREST DATE 4/18/08	ARRESTING AGENCY DAPO	BPT REFERRALS: <input type="checkbox"/> MANDATORY <input checked="" type="checkbox"/> NON-MANDATORY	BOOKING NUMBER AND/OR LOCATION 08026842/SCCJ	
ARREST CODE A	* ARREST CODES: A PACSD STAFF ALONE AB PACSD ASSISTED BY LAW ENFORCEMENT AGENCY B LAW ENFORCEMENT AGENCY ALONE D LAW ENFORCEMENT AGENCY WITH INFORMATION FROM PACSD			
HOLD DATE 4/18/08	DISCOVERY DATE 4/18/08	HOLD REMOVED DATE N/A	AGENT OF RECORD J. Fitzgerald	CONTROLLING DATE 5/13/08pts
CHARGES AND CODES 1. C4. Driving Under the Influence of Alcohol (.0850)		CHARGES AND CODES 4. PRIORITY		
REASON FOR RETAINING PAROLE HOLD: PAROLEE DANGER TO: <input type="checkbox"/> ABSCOND <input checked="" type="checkbox"/> SELF <input type="checkbox"/> PROPERTY-OTHERS <input checked="" type="checkbox"/> SAFETY-OTHERS		DATE COPY SENT TO PAROLEE 5/13/08pts		
		INITIALS OF PERSON SENDING		

High Risk Sex Offender

GPS Enrollment Date: 4/17/08

Officers acted upon my confession of Driving to the probation office

Charge 1: On 4/18/08 at approximately 0800, Johnson arrived at his Probation Officer's office smelling of alcohol. Johnson stated to Officer Lapizco that he had drove himself to her office on 4/18/08 and that he had been drinking beer that previous evening. Probation Officer Lapizco spoke with Johnson in her office for approximately one hour. Due to the strong odor of alcohol, Officer Lapizco decided that she would give Johnson a Breathalyzer Test. The Breathalyzer Test returned results of .088, which is over the legal driving limit in California. Officer Lapizco immediately took Johnson's car keys. Officer Lapizco contacted State Parole and informed them that Johnson had driven to her office with at least a .088 alcohol level. Parole Agents arrived at the Probation Office and also detected a strong odor of alcohol omitting from Johnson's person. Johnson was taken into custody for driving under the influence of alcohol.

Attachments: E-mail sent by Sonia Lapizco, U.S. Probation Officer.

Parolee Statement: On 4/18/08 Johnson stated to the AOR that he drove himself to the probation office and that he was asked to hand over his automobile keys due to him failing a Breathalyzer Test. He continued to state that he had his last drink of gin at around 1100 that previous evening. Johnson stated to the AOR that even though he had a .088 alcohol level, he was able to drive. Johnson also stated to Officer Lapizco that he believed he had an alcohol problem but did not want treatment.

Witnesses: J. Fitzgerald, PA1 - *was on vacation (cannot be witness)*
S. Lapizco, U.S. Probation Officer

Court Information: None.

Talked with me on phone!

APR 29 2008

PAROLEE'S NAME Johnson, Paul	CDC NUMBER P41120
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PRAYER FOR RELIEF

- (1) I would like you to please issue a Federal writ of Habeas Corpus, and to declare the constitutional rights of the petitioner.
- (2) Reverse the unethical good cause findings of the unlawful, unconstitutional charges reviewed and adjudicated by the "Parole Authority" void of a revocation hearing, Protected by Due Process clauses of the U.S. Constitution. (3) Restore my legal status of parole. (4) Expunge all "fraudulent charges from petitioner's central file. (5) Discharge my Federal Probation / State Parole Status. (6) A complete and thorough investigation by outside Party into the unethical, unlawful misconduct and misapplication of the law, as well as the failure of Calif. prisoners advocacy project's program to provide legal representation adequate and sufficient to satisfy constitutional Due Process standards. (7) To mandate that the Director of Correction, Bureau of Prisons Chief Inmate Appeals Coordinators respond to my various Filed P.C. 832.5 Citizens complaints. Finally, petitioner prays that the court mandate my immediate release.

VERIFICATION

I, Paul Samuel Johnson Jr, state:

I am the petitioner in this action. I have read the foregoing petition for Federal writ of Habeas corpus and the facts stated therein are true of my own knowledge, except as to matters that are therein stated on my own information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Dublin, California, on May 25, 2008.

Paul S Johnson Jr.
 09356-097
 CDC-P-41120
 PFN-UHQ-007

PAROLE

(1)

- § 104.01 Definition And Purpose;
Parole is a period of conditional liberty granted in order to facilitate the prisoner's rehabilitation.
- (1) Definition: A parolee has a liberty interest in parole when it is Mandated by statute on certain conditions, and is entitled to a review of the state's parole procedures under the Due process clause.
- (2) Purpose: The purpose of parole is primarily rehabilitative. a prisoner is allowed to live outside prison subject to certain conditions in order to facilitate his/her reintegration into society. Prisoners given hope of limited freedom outside prison have a motive for good conduct. In addition, parole serves to alliviate the cost to society of keeping offenders in prison.
- § 104.5 Authority to impose conditions: (A).
Meeting to Set conditions: (B).
- (A) Parole normally involves the requirements that the parolee abide by certain rules as a condition of his/her release from prison. The Cal. Board of Parole Hearings has discretion to impose such conditions on any prisoner in granting him/her parole. It must also review prisoners request for reconsideration of parole conditions.
- (B) At least 30 days before his/her good time release date, the date on which a prisoner who has accumulated the maximum number of good time and worktime credits would be released, and the Dept. of Corr. and Rehab must meet with the prisoner and inform him/her, using

continued

(2)

guidelines set by the parole authority, of the conditions of parole. If you refuse to sign your parole conditions of parole, or refuse to sign forms related to P.C. Section 290 registration requirements, This is called Revocation Extension. In order to extend your revocation term, the BHP has to provide you with notice of the charges against you, and the opportunity for a hearing on those charges. You are provided an attorney if you are facing revocation extension. Your attorney will help you understand the process, and decide whether you should accept the Board of parole Hearing; Revocation Extension Assessment (Rea, or screening offer). The maximum time you can have your parole extended is 180 days (6 months).

§ 104.4; Procedure: (1) Minimum time to be served before parole;
A person sentenced under P.C. section 1168 (indeterminate sentencing law) or under P.C. 1170 (determinate sentencing law) must be placed on parole, unless the parole authority waives this right and discharges the prisoner. (For full discussion of sentencing procedures, see chapter 9) "Sentencing"

The rules regarding the effect of sentencing on a prisoner's parole release date are;

- (1) A person sentenced to imprisonment for a year and a day, sentenced under P.C. section 1170 (determinate sentencing law) for a crime committed on or after July 1, 1977, or sentenced under P.C. Section 1168 (indeterminate sentencing law) for a crime committed either before or after July 1, 1977 but not sentenced to life imprisonment, must be paroled at the

Expiration of the term of imprisonment. The max⁽³⁾ parole term for such persons is Three Years, except that for a person sentenced for certain Sex Offenses, the maximum parole period is (5) five years. However, the "Parole Authority" may, for good cause, waive parole and discharge the inmate from custody at the time set for parole.

* However, In no case, except as provided in Section 3064 may a prisoner subjected to (3) three years on parole be retained under parole supervision or in custody for a period longer than (4) Four years from the date on his/her initial parole. ??? This section 3064 violates equal protection because it differed significantly from other commitments schemes and sentencing procedures; sentencing laws; that are retro active applications of former versions of statutes also violate ex post-facto laws, "MDO" law may be applied to paroled prisoners, when urgency legislation passed to cure constitutional defects in the law.

Prince v. Massachusetts, 321 U.S. 158, 166 (1944), [our] decisions have respected the private realm of family life which the state cannot enter. (An opinion of the U.S. Supreme Court.)

P.C. § 2932(g); See In re Ballard (1981) 115 Cal. App. 3d 647, 650, 171, Cal. Rptr 459 (When misapplication of presentence conduct credits delay parole release date, credits must be used to reduce parole period.)

Morrissey v. Brewer (1972) 408 U.S. 471, 477, 925. Ct. 2593, 33 L. Ed. 2d 484; People v. Danne (1956) 141 Cal. App. 2d 499, 507, 508, 297 P.2d 451; P.C. §§ 3000, 3074 P.C. § 3053(a) Robert v. Duffy (1914) 167, Cal. 629, 634, 140, P. 260.

P.C. §§ 3000(a)(6), 5077, Board of Pardon v. Allen (1987) (4)
 482 U.S. 369, 374, -380, 1075 S.Ct.
 2415, 96 L.Ed.2d 303; P.C. § 3053.4 Young v. Harper (1997)
 520 U.S. 143, 1775 S.Ct. 1148, 137 L.Ed.2d.
 270 (inmate released under states "pre parole" program
 similar to liberty in parole and is entitled to procedural
 protection of Morrissey v. Brewer, P.C. §§ 422.55, 422.6
422.7, 422.75, 594.3, 11411, P.C. § 3053.6(a) (in determin-
 ating whether to make order,
 parole authority must consider facts of offense and
 background of parole, P.C. §§ 2962, 2966(c) 2970, 2972(c)
(c), 2980; see also stats, 1989,
 ch. 228, § 8 (act, adding requirement of proof of danger-
 ousness and changing applicability of act to those
 persons committing crimes on or after Jan. 1, 1986
 in light of People v. Gibson, is urgency statute neces-
 sary to keep treatment program in effect for those
 persons who committed their crimes on or after
 Jan 1, 1986); People v. Robinson (1998) 63 Cal. App. 4th
 384, 74 Cal. Rptr. 2d 52 (MDO law is a
 civil scheme, and its imposition to prisoners whose
 offenses were admitted before July 1989 does not violate
 ex-post facto laws; supporting Myers conclusion in
 light of subsequent decision in; Kansas v. Hendricks
 (1997) 521 U.S. 346,
 117 S.Ct. 207, 138 L.Ed.2d 501); People v. Superior Court (Myers)
 (1996) 50 Cal. App. 4th 826,
 58 Cal. Rptr. 2d 3d (MDO law maybe applied to paroled
 prisoners whose predicate crimes were committed before
 July 27, 1989, when urgency legislation was passed
 and became effective to cure constitutional defects

in law found in Gibson; urgency legislation added⁽⁵⁾ in needed proof of present dangerousness requirements; further, Gibson was decided under former ex post facto law that has since changed in interpretation, and under new interpretation, MDO law is not subject to ex-post facto analysis); People v. Gibson (1988) 204 Cal.

App. 3d 1425, 1430, 143-1441, 252

Rptr. 460 <former versions of; P.C. §§ 2962-2980 violated equal protection, because they differed significantly from other commitment schemes by mandating commitment without proof of present, dangerousness; retro active application of former versions of statutes also violated ex post facto> P.C. § 3046.5(b)(2);

In re Strum (1974) 11 Cal. 3d. 258, 272-273, 113 Cal.

Rptr. 361, 521 P. 2d. 97 <due process violated when denials of parole were discussed in post hearing interviews with counselor, but prisoner did not learn real reason for denial until he retained counsel.> P.C. § 1168, 1170,

1170.2, 3000(b)(1)

(2); In re Chabliss (1981) 119 Cal. App. 3d 199, 201-203, 173

Cal. Rptr. 712 <prisoner was not entitled to release without parole simply because court failed to advise him of possibility of parole at sentencing>; In re Bray (1979) 97 Cal. App. 3d 506, 513-514, 158 Cal. Rptr. 745 <retroactive application of Penal Code § 3000 to parolee, increasing term, violates prohibition on ex post facto laws> § 1167.5(4)

(3), (4), (5), (6), (16), (18); § 3000(b)(1) P.C. § 4667.5(c)(3)(4)(5)(6), (16), (18), P.C. § 3000(b)(1), (2).

[104.02] Parole Administration; the parole authority grants, suspends, and revokes parole for state prisoners. [1] Parole Authority; for the purposes of Penal Code

(6)

Section 3000 et seq.) The Board of Prison/parole Hearings (Formally the Board of Prison Terms) is considered the Parole Authority. The parole authority reviews a prisoners request for reconsideration of denial of goodtime credit, the setting of the length of conditions of parole and the suspension or revocation of parole. Not pre-emptive DAPO Agent; post BPH Hearing; pre-revocation Extension!

POINTS OF AUTHORITY

1 Due process clause of the 14th Amendment
 2 of the U.S. Constitution applies to Federal &
 3 State Parole revocation hearings.
 4 In re Fleury (1967) 67 Cal. 2d 600 [63 Cal. Rptr. 298]
 5 In re Williams M. (1970) 3 Cal. 3d 16 [89 Cal. Rptr. 33]
 6 In re Bye (1974) 12 Cal. 3d 96 [115 Cal. Rptr. 382].
 7 In re Silverstein (1942) 52 Cal. App. 2d 725, 728, 729,
 8 126, P.2d 962 (When federal authorities did not
 9 object to state agents retaking parolee, parolee
 10 could not complain; grant of habeas corpus reversed).
 11 Even when the parolee is on both Federal & State
 12 parole, the state retains the power to revoke
 13 state parole, retake the parolee and imprison
 14 him/her. This power is subject only to Federal
 15 Rights, if asserted, under the principle of comity
 16 between jurisdictions.
 17 Fifth Amendment: Due process requires that the
 18 probationer or parolee be accorded certain guarantees
 19 including the right to a hearing. The probationer
 20 or parolee "must" have an informal fact finding
 21 hearing, in the nature of a preliminary hearing to
 22 determine whether the conditions of probation or
 23 parole have in fact, been violated. Health & Safety
 24 Code §§ 11561, 11563

CONCLUSION

25
 26
 27 Unfortunately we don't have the personal option
 28 to place sentimental consideration of the fate of
 29 these few agents, who knew full well what the
 30 concluding risk of their actions could procure.
 31 Though they may claim their actions & efforts were
 32 in good faith. The scales of justice have taken on
 33 a significant unbalancing shift of weight. Due to
 34 their acts of provisional injustice... Ignorance to
 35 the law is no EXCUSE! These individual agents
 36 representing the Federal & State Parole Dept, therefore
 37 must be subordinate to the greater good, securing
 38 justice of the free world & free land. The laws, Ethics
 39 Procedures, guidelines, functions & operations
 40 governing that duty by which they were fore sworn
 41 by Oath to ultimately uphold; by that great seal of
 42 the STATE OF CALIFORNIA.

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Immediate Response

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